

COASTAL CONSERVANCY

Staff Recommendation
November 6, 2008

**IRISH HILLS CONSERVATION PROJECT:
WILD CHERRY CANYON ACQUISITION**

File No. 08-114-01
Project Manager: Tim Duff/Carol Arnold

RECOMMENDED ACTION: Authorization to disburse up to \$5,000,000 to the American Land Conservancy for the acquisition of approximately 2,400 acres known as the Wild Cherry Canyon Property for the protection and restoration of natural resources and for public access consistent with those purposes, San Luis Obispo County.

LOCATION: Between Avila Beach and Port San Luis, western San Luis Obispo County (Exhibit 1: Project Location and Site Map).

PROGRAM CATEGORY: Restoration of Significant Coastal Resource Areas

EXHIBITS

- Exhibit 1: Project Location and Site Map
 - Exhibit 2: Project Parcel Map
 - Exhibit 3: Project Brochure (American Land Conservancy)
 - Exhibit 4: Potential Coastal Trail Alignments
 - Exhibit 5: Project Letters
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31350-353 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of up to five million dollars (\$5,000,000) to the American Land Conservancy (ALC) for the purpose of acquiring San Luis Obispo County Assessor Parcel Nos. 076-161-001, 002, 004 (portion); 076-171-017, 021; and 076-172-013, as shown in Exhibit 2 to the accompanying staff recommendation, consisting of approximately 2,400 acres commonly known as the Wild Cherry Canyon Property (Property) within San Luis Obispo County subject to the following conditions:

1. Prior to the disbursement of funds for the acquisition, ALC shall submit for the review and approval of the Executive Officer of the Conservancy (Executive Officer):

- a. All relevant acquisition documents for both the leasehold acquisition and for fee title acquisition, including, without limitation, the appraisal, purchase agreement, leasehold and its amendments, if any, deed restrictions, agreements of restrictive covenants, notices of unrecorded agreements, escrow instructions, environmental or hazardous materials assessment and title report.
 - b. Evidence that sufficient funds are available to complete the acquisition.
 - c. Evidence that the acquisition includes a fully executed appropriate instrument for transfer of fee title of the Property by December 31, 2025 from Eureka Energy Company, a subsidiary of Pacific Gas and Electric Company or its successor-in-interest to a public agency or a nonprofit organization acceptable to the Executive Officer.
2. The ALC shall pay no more than fair market value based upon an appraisal of the Property.
 3. The ALC shall permanently dedicate the Property for habitat preservation, open space protection and public access through an appropriate instrument approved by the Executive Officer consistent with Public Resources Code Section 31116.
 4. Conservancy funding shall be acknowledged by erecting and maintaining a sign or signs on the Property, the design and location of which to be reviewed and approved by the Executive Officer.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the Project Selection Criteria and Guidelines, last updated by the Conservancy on September 20, 2007.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 8 of Division 21 of the Public Resources Code, regarding the reservation of significant coastal resource areas.
3. The ALC is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, and whose purposes are consistent with Division 21 of the Public Resources Code.”

PROJECT SUMMARY:

This project will result in the American Land Conservancy’s (ALC) acquisition of approximately 2,400 acres of spectacular coastal property known as the Wild Cherry Canyon property (the Property). The acquisition of the Property consists of the purchase of the leasehold from The San Luis Bay and Pacho Limited Partnerships (Partnerships), acquisition of the fee interest on one parcel from the Partnerships, and the transfer of the fee interest from Eureka Energy, a subsidiary of Pacific Gas and Electric Company (collectively referred to as PG&E). These transfers will take place in two different time periods: transfer from the Partnerships to ALC of the leasehold on the Property and of the one fee parcel will occur in early 2009 at which time these interests will immediately transfer from ALC to the California Department of Parks and Recreation

(DPR); then, by no later than December 31, 2025, fee title will transfer from PG&E to DPR or another public agency or nonprofit organization acceptable to the Conservancy's Executive Officer at no additional cost

The Property lies between Avila Beach and Port San Luis in the Irish Hills area of western San Luis Obispo County and encompasses several important coastal watersheds which are home to a diverse array of plant and animal species (Exhibit 3). Combined with other protected properties in the Irish Hills, purchase of this Property will lead to the expansion of the 8,000 acre Montana De Oro State Park by almost sixty-five percent and provide a critical link in a planned 20-mile California Coastal Trail segment between the communities of Los Osos to the north and Avila Beach (Exhibit 4).

The Irish Hills are a mountainous region comprised of rolling hills and peaks that lies between the communities of Los Osos and Pismo Beach. Numerous coastal watersheds drain the Irish Hills, terminating at the Pecho Coast, the 20 mile long coastline spanning the western edge. With the exception of the Diablo Canyon Nuclear Power Plant, the area has avoided large-scale development due to the difficulty of developing major transportation corridors within the rugged terrain. Land uses are largely limited to ranching and rural residential housing.

In 2001, the Conservancy funded the Irish Hills Coastal Watershed Conservation Plan to establish a consensus among environmental organizations and resource agencies as to which properties within the Irish Hills should be considered conservation priorities. Due to its size, location, public access potential and extensive natural resources, the Wild Cherry Canyon Property (known in the Plan as the Leucadia Ranch) was identified as one of the most important. The Plan recognized that acquisition of Property was necessary to protect it from development which, due to the Property's proximity to public roads and community services, and the fact that much of it is outside the coastal zone, has been considered all but inevitable. Development of the Property would not only degrade habitat for a number of rare plants and animals, but would also increase sedimentation into local creeks and San Luis Bay.

The Property is owned by PG&E, which operates the Diablo Canyon Nuclear Power Plant (Plant) seven miles to the north. PG&E acquired the underlying fee to the Property, subject to a pre-existing lease. The lease, held by the Partnerships, runs for another 60 years, with an option to extend it for an additional 99 years. A recent appraisal revealed that ownership of the lease represents all of the Property's current economic value.

The acquisition of the Property will involve the purchase of the lease and one fee parcel by the ALC which ALC will then immediately transfer to DPR. The lease purchase will effectively transfer to DPR the use of the Property for the remaining 159 years. The Property will be use-restricted through an appropriate instrument for the purposes of the leasehold acquisition which is for habitat preservation, open space protection and public access. Additionally, the lease will be amended to grant to PG&E:

1. A new emergency access easement to the Diablo Canyon Plant;
2. The leasehold interests and access rights in the primary plant access road as well as all land to the south of that road (with easement restrictions to ensure resource protection), while retaining emergency access rights for the Wild Cherry Canyon Property; and
3. Permanent and unencumbered access to the Marre homesite.

4. Rights to construct security fencing between the borders of the Diablo Canyon site and the Property.

PG&E will transfer the fee interest in the Property to DPR or another public agency or nonprofit organization acceptable to the Conservancy's Executive Officer by no later than December 31, 2025.

In addition to this project, other acquisitions in the Irish Hills include the 1,500 acre Hibberd Preserve, owned by the Land Conservancy of San Luis Obispo County, and the 2,000 acre Andre Ranch, the focus of a large-scale Nature Conservancy project. The Bureau of Land Management also owns and manages several large Irish Hills properties. In conjunction with the Wild Cherry Canyon Property, these properties together create an exciting opportunity to develop a 20-mile segment of the California Coastal Trail through Montana de Oro State Park linking the communities of Los Osos to the north with Avila Beach (Exhibit 4).

ALC is a national nonprofit organization dedicated to the protection and preservation of land for conservation purposes. In 2005, the organization completed the 82,000 acre Hearst Ranch acquisition in northern San Luis Obispo County. This was a complicated project involving both fee and easement interests. ALC has extensive experience negotiating large and complex land acquisitions such as the Hearst Ranch and that proposed for the Wild Cherry Canyon Property.

Site Description: Located in western San Luis Obispo County between Los Osos and Pismo Beach, the Irish Hills encompass approximately 60,000 acres of rugged and largely undeveloped terrain. On its western edge is the 20 miles stretch of the Pecho Coast, comprised of small coves with sandy pocket beaches, rugged cliffs, offshore sea stacks and a rocky headland. Immediately inland are ancient wave-cut marine terraces that support some of the best examples of coastal prairie habitat known in the state. The coastal plain sweeps back from the ocean and curves up precipitous terrain to peaks above 1,500 feet where visitors can view nearly one hundred miles of coastline from Piedras Blancas in the north to Point Sal in the south. The only major development in the Irish Hills is the Diablo Canyon Nuclear Power Plant, located on the coastal terrace in the central portion of the Pecho Coast.

Although most of the land in the Irish Hills is privately owned, both the state and federal governments manage properties within this mountain complex. The 8,000 acre Montana de Oro State Park occupies the northern portion where miles of trails, outstanding views, and pristine grasslands and other habitats are the prime features. The Bureau of Land Management owns some remote lands, and the Land Conservancy of San Luis Obispo owns the 1,500 acre Hibberd Preserve. State Parks owns fee title to portions of the Andre Ranch, including those areas needed for development of the Coastal Trail, and The Nature Conservancy owns a conservation easement over the remainder.

The Wild Cherry Canyon Property is comprised of approximately 2,400 acres located within the southwestern portion of the Irish Hills between the communities of Avila Beach and Port San Luis. Although no part of the Property is directly on the coast, a popular beach is located just west of the main access road. Elevations range from near sea level to Bald Knob, a 1,186 peak from which spectacular views of the Pecho Coast and the southern San Luis Obispo coastline greet the visitor. The Property is bordered by the Hibberd Preserve on the northeast, PG&E lands to the north, San Luis Bay on the southwest, and private ranches to the east. The Property's gently rolling to steep terrain encompasses portions of multiple watersheds draining to the

Pacific Ocean, including most of Wild Cherry Canyon, upper Harford Canyon Creek, the headwaters of Ratlesnake Canyon Creek, and the eastern half of the upper Pecho Creek watershed.

Rolling hills, knolls and narrow valleys characterize the Wild Cherry Canyon Property. Dense coast live oak woodlands with massive specimen oaks, grasslands, coastal scrub, coastal chaparral and riparian forest habitats are all found on the Property. Potential special status species include the California red-legged frog, western pond turtle, two-striped garter snake, Coast Range newt, and pallid and Townsend's big-eared bats. Numerous bird species occupy some of the types of habitats found on the Property. These include the Cooper's hawk, sharp-shinned hawk, ferruginous hawk, merlin, golden eagle, Bell's sage sparrow, California horned lark, tricolored blackbird, burrowing owl, long-eared owl, yellow warbler, and yellow-breasted chat. Special status plants include La Cruz, Edna and Pecho Manzanita, and Hoover's bentgrass.

Several archaeological sites have been located on the Property exhibiting bedrock mortars and scattered tool fragments. The Property is used for cattle grazing and to access the Diablo Canyon Plant seven miles to the north. The Wild Cherry Canyon Property is one of the few in the area that can be accessed directly from a public road - San Luis Bay Drive. A maintained dirt road winds up Wild Cherry Creek to the Hibberd Preserve, and through BLM lands to terminate at the Plant. Threat of development on the Wild Cherry Canyon property is substantially higher than that of other large properties in the area due to its potential view home sites outside of the coastal zone, its proximity to basic services in Avila Beach, and convenient access.

Project History: Archaeological evidence suggests that Native Americans utilized the Irish Hills as far back as 9,000 years ago. By 1,000 years ago, the Chumash Indians were the primary residents, part of the vast trade network that extended well into the southwestern deserts. The Chumash depended heavily on food from the sea, as well as seeds and acorns gathered from the grasslands and oak groves. Deer and small mammals were also hunted.

Old World explorers visited the area for the first time in 1542 when Juan Rodriguez Cabrillo led a seafaring expedition along the California coast from Mexico to the Oregon border. Europeans did not arrive in significant numbers until after 1769 when Portolá and his troops set out from San Diego to blaze an overland route. Following in the footsteps of Portola were members of the Franciscan order who established the mission at San Luis Obispo in 1772.

By the early 1840s, the Irish Hills were divided into several Spanish ranchos used for grazing huge herds of cattle for the lucrative hide and tallow trade. Avila Ranch was spread across sections of the 31,000 acre Rancho Corral de Piedra and the 9,000 acre Rancho el Pismo. In the years following California statehood in 1850, the ranchos were broken up and sold off. American and European settlers began to arrive in increasing numbers, buying up inexpensive rancho lands and establishing dairy and crop farms.

Due to its rugged terrain and lack of accessibility, through the years the Irish Hills have remained largely undeveloped. Then, after many years of controversy, in 1968 PG&E began construction of the Diablo Canyon Nuclear Power Plant in the central coastal portion of the Irish Hills. Authorized to operate until 2025, the Plant has been producing and transmitting electricity since the early 1970s. Negotiations are currently underway between PG&E and regulatory agencies to determine the long-term future of the Plant.

In 1965, the northern portion of the Irish Hills was set aside as Montana de Oro State Park. In the 1990s, environmental groups began focusing on privately owned areas of the Irish Hills for potential conservation properties. Concerns that the development boom taking place in much of San Luis Obispo County might extend even to this rugged area prompted conservation organizations to seek help from the Conservancy.

Responding to these concerns, in 2001 the Conservancy funded the Irish Hills Coastal Watershed Conservation Plan (Plan) to identify which areas would offer the best conservation potential. Completed in October 2001, the Plan named the Wild Cherry Canyon Property, known as the Leukadia Ranch in the Plan, as one of the highest priorities. In 2007 ALC began negotiations with PG&E and other relevant parties to pursue this project. ALC now holds an option agreement to acquire the Property and has been actively engaged in project promotion and fund-raising.

In addition to ALC, several other conservation organizations have been actively engaged in carrying out conservation projects in the Irish Hills including the San Luis Obispo County Land Conservancy and The Nature Conservancy (TNC). On August 8, 2008, the Public Works Board approved DPR's acquisition of approximately 2,000 acres of land owned by TNC and the Andre family, the first of a two phase acquisition. The second phase, consisting of DPR's acquisition of the Hibberd Preserve and the Wild Cherry Canyon property, both approved in concept, will come before the California Public Works Board in the near future.

PROJECT FINANCING:

Coastal Conservancy	\$5,000,000
Department of Parks & Recreation	6,500,000
Wildlife Conservation Board	6,876,000
California Transportation Commission	1,030,000
San Luis Obispo Council of Governments	350,000
Regional Water Quality Control Board	950,000
Hind Foundation	150,000
Private Donors	16,000
On-going Fund Raising	<u>3,128,000</u>
TOTAL:	\$24,000,000

Conservancy funds for this project are expected to derive from the FY07/08 appropriation to the Conservancy from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84). This funding source may be used for the protection of bays, coastal waters, and watersheds, including projects to protect natural habitat values of coastal waters and lands, pursuant to the Conservancy's enabling legislation, Division 21 of the Public Resources Code. The acquisition of the Wild Cherry Canyon Property will serve to protect natural habitats in several important coastal watersheds, including Wild Cherry Canyon, and parts of upper Harford Canyon Creek, the headwaters of Rattlesnakes Canyon Creek, and the eastern half of the upper Pecho Creek watershed.

Proposition 84 also requires that for acquisition projects that protect natural resources, the

Conservancy assess whether the project meets criteria specified in Section 75071 of the Public Resources Code. The proposed acquisition satisfies three of the specified criteria:

- 1) The property links to existing protected areas with other large blocks of protected habitat. The linkage serves to connect existing protected areas, facilitate wildlife movement or botanical transfer, and results in sustainable combined acreage.
- 2) The project will contribute to long-term protection of and improvement to the water and biological quality of several important coastal streams, including Wild Cherry Canyon, upper Harford Canyon Creek, the headwaters of Rattlesnake Canyon Creek, and the eastern half of the upper Pecho Creek watershed.
- 3) The project is supported by non-state matching funds.

Finally, as required by Section 75701, Conservancy staff has submitted to the Resources Agency and has posted on the Conservancy's website an explanation as to how the proposed acquisition meets the criteria of that section.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project would be undertaken pursuant to Chapter 8 of the Conservancy's enabling legislation, Public Resource Code Sections 31350-31356.

Under Section 31350, the Conservancy may acquire and protect interests in key coastal resource lands that otherwise would be lost to public use. The proposed project would protect important coastal terrace habitat, as well as most of Wild Cherry Canyon, upper Harford Canyon Creek, the headwaters of Rattlesnakes Canyon Creek, and the eastern half of the upper Pecho Creek watershed. If the proposed project is not implemented, the property may undergo residential development at some point in the future. Residential development of the site would result in the loss of the potential for public access, degradation of the scenic views currently available from the Property, and reduction in wildlife habitat quality and wildlife movement.

Under Section 31351(a), the Conservancy may cooperate with nonprofit organizations and public agencies to reserve interests in real property to ensure the preservation of coastal resources for parks, recreational uses and fish and wildlife habitat. The Conservancy is cooperating with ALC, a nonprofit organization, and other public agencies to ensure the preservation of coastal resources for these purposes on the Wild Cherry Canyon Property.

Under Section 31352(a)(1), the Conservancy may award a grant to a nonprofit organization to ensure the reservation of significant coastal resource sites for public enjoyment, provided that the nonprofit organization is unable to acquire the property without the grant. ALC has secured commitments of sixty percent of the funds necessary to acquire the Wild Cherry Canyon Property and is actively fund-raising for another twenty percent. ALC will be unable to acquire the property without a grant from the Conservancy for the remaining twenty percent.

Consistent with Section 31116(b), the public interest in the property will be protected by an agreement approved by the Executive Officer.

**CONSISTENCY WITH CONSERVANCY'S 2007
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 1, Objective 1E and Goal 2, Objective 2C** of the Conservancy's Strategic Plan, the project will open a coastal property that has heretofore been closed to public use. It will be part of a block of publicly held land that will provide the opportunity for development of a 20-mile California Coastal Trail segment between in Los Osos and Avila Beach.

Consistent with **Goal 4, Objective 4A**, the proposed project will protect approximately 2,400 acres of sensitive watershed resources, including coastal prairie grasslands, coastal sage scrub, coastal chaparral and riparian forests.

Consistent with **Goal 5, Objective 5C**, the Property will adjoin other protected properties to provide habitat corridors from the mountains and foothills to the coastal terrace.

Consistent with **Goal 6, Objective 6B**, acquisition of the Wild Cherry Canyon Property will result in the preservation of coastal watershed lands, creating the opportunity to enhance and restore natural resources within sensitive habitat areas.

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on September 20, 2007, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** The project has the support of Congresswoman Lois Capps, State Senator Abel Maldonado and Assemblyman San Blakeslee, as well as the California Department of Parks and Recreation, California Transportation Commission, the Wildlife Conservation Board, County of San Luis Obispo, San Luis Obispo Council of Governments (SLOCOG), Land Conservancy of San Luis Obispo County, Regional Water Quality Control Board, the Hind Foundation, California Native Plant Society, The Nature Conservancy, San Luis Obispo Parks, Open Space and Trails, the Gross Family Foundation, and other environmental groups (Exhibit 5).
4. **Location:** Approximately fifteen percent of the Wild Cherry Canyon Property is located within the coastal zone of the County of San Luis Obispo. The Property's important habitats outside of the coastal zone are contiguous with those within the coastal zone, providing an uninterrupted block of land for free movement of plants and wildlife. Additionally, the Property's hills and mountains serve as a scenic backdrop to coastal zone lands, and connect with other similar features on adjacent protected properties which together provide the opportunity for linking the communities of Avila Beach and Los Osos with a 20-mile long public access trail.

5. **Need:** ALC has identified eight other major funders in addition to the Conservancy and is actively pursuing more. With a project as large as this, many entities must participate in order to make it possible. Without the Conservancy's participation, the acquisition will not be able to move forward.
6. **Greater-than-local interest:** Once acquired, the Wild Cherry Canyon Property will be an important protected natural resource area, providing a haven for many special status plant and animal species, the survival of which benefits all. Additionally, once linked with other protected properties in the area, the Property will be an important component of an effort to construct a 20-mile long highly scenic public access corridor linking the communities of Los Osos and Avila Beach. A trail of this scope and quality will inevitably draw visitors from all over the state, country and world.

Additional Criteria

7. **Urgency:** The Wild Cherry Canyon Property has long been a conservation priority in the Irish Hills area of San Luis Obispo County. ALC holds an option to purchase the long-term lease on the Property which will expire before the end of the year. If the project does not move forward at this time, the opportunity to protect this important Property will be lost.
8. **Resolution of more than one issue:** This project will result in the protection of a number of important habitat types including those supporting a diverse assemblage of special status plant and animal species. Additionally, once basic access amenities are installed, the Property will be accessible to the public.
9. **Leverage:** See the "Project Financing" section above.
10. **Conflict resolution:** About eighty five percent of the Property is outside the coastal zone, making it a prime target for private development which could degrade its significant natural resources as well as eliminate the possibility for public access. Purchase of the Property will permanently resolve these issues.
11. **Readiness:** Most of the necessary funds to complete this project have been identified and ALC expects to raise the additional needed funding in the near future. The project is ready to move forward.
12. **Realization of prior Conservancy goals:** In 2001, the Conservancy funded the Irish Hills Coastal Watershed Conservation Plan to evaluate potential conservation opportunities in this area. This project carries out the recommendations of the Plan.
13. **Cooperation:** This project is a cooperative effort of the ALC, California Department of Parks and Recreation, Wildlife Conservation Board, California Transportation Commission, Regional Water Quality Control Board, the San Luis Obispo Council of Governments, the Conservancy and numerous environmental organizations.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES: This project is consistent with the certified San Luis Obispo Local Coastal Plan (LCP), San Luis Bay Planning

Area, which encompasses the coastal zone portion of the area known as the Irish Hills, including the fifteen percent of the Wild Cherry Canyon Property within the coastal zone.

Specifically, the project is consistent with Chapter 6, Section A (Rural Area Land Use) of the LCP in that it preserves rural lands, which “should...retain their natural quality [to]... the maximum extent possible”. Additionally, the project is consistent with Chapter 7, Section A (Combining Designations) in that the coastal terrace of the Irish Hills is identified as a sensitive resource area requiring the avoidance of adverse environmental impacts. Acquisition of the Property will preserve the site’s important natural, scenic and recreational resources in perpetuity.

COMPLIANCE WITH CEQA: Acquisition of the Wild Cherry Canyon Property is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Sections 15313 and 15325 of 14 Cal. Code of Regulations (CCR). Section 15313 exempts acquisition of lands for fish and wildlife conservation purposes where the intent of the acquisition is to preserve the land in its natural condition. The proposed project is exempt pursuant to Section 15325 because it is an acquisition of land to preserve existing natural conditions and open space. Upon Conservancy approval of the proposed authorization, staff will file a Notice of Exemption for the project.